

Message

From: Videtich, Callie [Videtich.Callie@epa.gov]
Sent: 10/17/2019 10:09:50 PM
To: Thomas, Deb [thomas.debrah@epa.gov]
Subject: Tribal consultation info

DEB: here is info I got back from AIEO today to some questions I posed about our reporting of consultation work. Not sure that they provided the specific info we needed to gauge our work but the table might tell a better story. Basically I see that we didn't update TCOTS on a regular basis.

Cal

1. What are AIEO's expectations of Regions related to consultations occurring in the region and providing documentation of those interactions into the TCOTS system.

AIEO expect that all consultations taking place in the Regions will be posted to the TCOTS system. When these are known in advance (i.e. for a planned permit or rulemaking), they should be included in the semi-annual request for upcoming consultations as well. For ad hoc consultations, those should be added as soon as information is available. Any notification letters and other supporting documents deemed germane to the consultation should also be uploaded to TCOTS. Notes from the interaction and/or any related follow-up do not to be uploaded or shared with AIEO at any point.

2. Have there been gaps in our meeting those expectations and what have been the issues? Examples:

a. Do we do the work and just not report it? Consultation determinations/considerations come from the Region. AIEO has no direct communications with the Region on these decisions. What we have observed across EPA is that consultations are happening but staff are not working with their Tribal Consultation Advisors to ensure compliancy to the consultation policy or administratively entering and closing out a TCOTS record. We are aware of this happening - when we have discussions with regional staff, when a record is entered into TCOTS but not completed (learn later on that the consultation did occur), and earlier this year, GAO documented it in their report findings (GAO 19-123).

b. Have we been reporting the wrong info? See response a.

c. Do we have a rep on any national calls you lead to discuss expectations? Yes typically it is the Tribal Program Manager (THIS HAS BEEN KIM FOR US) (made-up title that describes an EPA staff person who is lead/poc responsible for tribal consultation and other tribal issues). EPA's Tribal Consultation Policy lays out the roles and responsibilities of the DRA designated Tribal Consultation Advisor.

3. Where does the Region currently stand in meeting expectations. (we had three requests)

1. Region 8 has provided the following for the Semi-Annual Call for tribal consultation Projections (Oct 2019 call)- Completed

Status	Submitted	By	Updated	Lead Office	Topic	TCA	Consultation POC	Activity	Scope
Initial Draft	9/28/2019	Kimberly Varilek	9/28/2019	Region 08	Reservation-specific Federal Implementation Plan Eastern Shoshone Tribe - Development and Issuance of NPDES	Kimberly Varilek	Monica Morales	Permits	Regional
Initial Draft	9/28/2019	Kimberly Varilek	9/28/2019	Region 08	Permitting Action for	Kimberly Varilek	Alysia Tien	Permits	Regional

Initial Draft	9/28/2019	Kimberly Varilek	9/28/2019	Region 08	Wesco Oil and Gas U&O Emission Reduction Credit Banking Rule Ute Tribe - Development and Issuance of NPDES Permitting Action for	Kimberly Varilek	Monica Morales	Permits	Regional
Initial Draft	9/28/2019	Kimberly Varilek	9/28/2019	Region 08	American Gilsonite Co. Northern Arapaho Tribe - Development and Issuance of NPDES Permitting Action for	Kimberly Varilek	Alysia Tien	Permits	Regional
Initial Draft	9/28/2019	Kimberly Varilek	9/28/2019	Region 08	Wesco Oil & Gass Northern Arapaho Tribe - Development and Issuance of NPDES Permitting Action for	Kimberly Varilek	Alysia Tien	Permits	Regional
Initial Draft	9/28/2019	Kimberly Varilek	9/28/2019	Region 08	Phoenix Oil & Gass Eastern Shoshone Tribe - Development and Issuance of NPDES Permitting Action for	Kimberly Varilek	Alysia Tien	Permits	Regional
Initial Draft	9/28/2019	Kimberly Varilek	9/28/2019	Region 08	Phoenix Oil & Gass Confederated Salish and Kootenai Tribes - Development and Issuance of NPDES Permitting Action for	Kimberly Varilek	Alysia Tien	Permits	Regional
Initial Draft	9/28/2019	Kimberly Varilek	9/28/2019	Region 08	City of Ronan, MT Standing Rock Sioux Tribe - Development	Kimberly Varilek	Alysia Tien	Permits	Regional

					and Issuance of NPDES Permitting Action for Wulf Cattle Three Affiliated Tribes - UIC Permit Applications for Independence ND LLC Oglala Sioux Tribes - Re- issued Class III and V UIC Permits for Dewey Burdock Uranium ISR Project Santee Sioux Tribes - Re- issued Class III and V UIC Permits for Dewey Burdock Uranium ISR Project Cheyenne and Arapaho Tribes of Oklahoma - Re-issued Class III and V UIC Permits for Dewey Burdock Uranium ISR Project Re-issued Class III and V UIC Permits for Dewey Burdock Uranium ISR Project Review of Draft Regional Guidelines for Drinking Water Tribal Set-Aside Program (DW- TSA)	Kimberly Varilek	Douglas Minter	Permits	Regional
Initial Draft	9/28/2019	Kimberly Varilek	9/28/2019	Region 08					
Initial Draft	9/28/2019	Kimberly Varilek	9/28/2019	Region 08					
Initial Draft	9/28/2019	Kimberly Varilek	9/28/2019	Region 08					
Initial Draft	9/28/2019	Kimberly Varilek	9/28/2019	Region 08					
Initial Draft	9/28/2019	Kimberly Varilek	9/28/2019	Region 08					
Initial Draft	9/28/2019	Kimberly Varilek	9/28/2019	Region 08					
Initial Draft	9/28/2019	Kimberly Varilek	9/28/2019	Region 08					

2. TCOTS Administrative Closeout – Not completed (have gotten email acknowledging working on)

Lead Office Contact	Scope	Start	End	Topic
Region 08 Kimberly V	Regional	2/20/2019	2/28/2019	Ute Indian Tribe - EPA Region 8 Tribal Consultation on Potential U&O FIP
Region 08 Kimberly V	Regional	11/27/2018	11/27/2018	Consultation with MHA Nation regarding Draft UIC Permit ND22361-11336 for the Big Bend 3-6 SWD Class II Commercial Disposal Well
Region 08 Kimberly V	Regional	11/27/2018	11/27/2018	Consultation with MHA Nation regarding UIC Liberty 200-14 SWD Class II Disposal Well
Region 08 Kimberly V	Regional	11/27/2018	11/27/2018	Consultation with MHA Nation regarding UIC Howie 1 SWD Class II Commercial Disposal Well
Region 08 Kimberly V	National	4/26/2018	8/31/2018	Consultation with Ute Tribe regarding National O&G FIP Amendment
Region 08 Kimberly V	Regional	8/15/2017	5/22/2018	Ute Mountain Ute Tribe Consultation Regarding White Mesa Mill Permitting and Licensing
Region 08 Kimberly V	Regional	5/22/2017	3/19/2018	Consultation and Discussions with the Mandan, Hidatsa, and Arikara Nation About Environmental Regulations on the Fort Berthold Indian Reservation
Region 08 Kimberly V	Regional	3/22/2017	5/10/2017	Elm Ridge Ignacio Gas Treating Plant Air Permit. Pertains to draft proposed synthetic minor New Source Review permit for the Elm Ridge Exploration Ignacio Gas Treating Plant located on the Southern Ute Reservation

3. Tribal Environmental Directors Updates – Completed

4. Do you have recommendations on what we need to do to sustain success?

Ensure that all staff working with tribes be familiar with the consultation policy, Tribal Treaty Rights guidance, and how it is implemented, including using TCOTS to capture all consultations. Not only is this important to achieving our commitment to consult with tribes, but we also use TCOTS to report out to OMB on annual consultation activity. AIEO has offered and is setting up individual regional trainings for R8 Regional Indian Workgroup and others in R8.

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